

STATUS OF CLAIMS

Claims 1-20 are cancelled.

Claims 21-59 are rejected under 35 USC 103(a) as being unpatentable over Luzeski et al. (US 6,470,177, "Luzeski") in view of Parasnis et al (US 6,728,753, "Parasnis") and Broussard (US 6,269,483).

Claims 21-59 are the subject of this appeal.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The rejection of claims 21-59 under 35 USC 103(a) as being unpatentable over Luzeski in view of Parasnis and Broussard is presented for review.

ARGUMENT

Applicants respectfully disagree with the statement on page 3, paragraph 2.a. of the Examiner's Answer, that Luzeski teaches receiving by a messaging server, content including a streamable media component and information describing the streamable media component.

The abstract, cited by the Examiner, describes a messaging system that provides email, voicemail, and fax mail services. Subscribers use the Internet and a web browser to access an inbox that displays all the email, voicemail and fax mail messages, and to read email and fax mail, or listen to voicemail. There is nothing in the abstract related to a streamable media component, as defined by the claims and nothing about information describing the streamable media component.

Column 5, lines 47-52, cited by the Examiner, describe receiving and managing content and information from content providers. However, there is nothing in this section, or anywhere else in Luzeski related to a streamable media component, constructed to be presentable to a recipient while being transmitted from a messaging server to a recipient wireless terminal.

Column 3, lines 6-13, column 17, lines 14-16, column 24, lines 58-67, and column 25, lines 2-9, are newly cited in the Examiner's Answer in Section 10, page 12, lines 2-8.

Column 3, lines 6-13 of Luzeski describe a need for improved speed in transferring large data objects such as video. Column 17, lines 14-16, describe how a message may have three types of attachments with ASCII text content, HTML content, and audio content respectively. Column 24, lines 58-67 describe a pre-defined object content type that specifies ISDN mu-law or pulse code modulation encoded audio. Column 25, lines 2-9 describe another pre-defined object content type that specifies MPEG encoded video. However, there is no

reference to receiving a streamable media component in any of these sections of Luzeski.

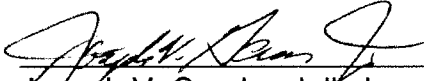
Applicants disagree that any of a video data object, an audio content attachment, or a pre-defined object content type that specifies ISDN mu-law or PCM encoded audio, or MPEG encoded video would be clearly recognizable as “streamable media” by one skilled in the art because there is no disclosure related to any of these items as being streamable. Furthermore:

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish inherency. ... To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference.... (MPEP 2112 quoting *In re Rijckaert*, 9 F.3d 1531, 1534, (Fed. Cir. 1993), and *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App.&Inter. 1990), emphasis in originals).

Applicants respectfully submit that because none of these items are disclosed as being streamable, that Luzeski fails to disclose or suggest receiving by a messaging server, content including a streamable media component and information describing the streamable media component.

The Commissioner is hereby authorized to charge any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



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28 Jan 2008
Date

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Megan L. Holthaus
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